

AY
a word object surface formed of sheet material and shaped so as to resemble
a cartoon word balloon; and
a second magnetic layer fixably attached to the word object surface;
an accessory object including:
a first accessory surface formed of sheet material and shaped so as to
resemble a tool; and
a third magnetic layer fixably attached to the accessory surface.

18. The kit of claim 17 comprising:
a second character object substantially similar to the first character object.
19. The kit of claim 17 comprising:
a second word bubble object substantially similar to the first word bubble object.
20. The kit of claim 17 comprising:
a second accessory object substantially similar to the first accessory object.

REMARKS

This is in response to the Office Action mailed on March 10, 2003, in which claims 1-20 were rejected under 35 U.S.C. § 112, claims 1-2, 6-8 and 10 were rejected under 35 U.S.C. § 102, and claim 9 was rejected under 35 U.S.C. § 103.

Claim Rejections – 35 U.S.C. § 112

Claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Examiner objected to the term “artistic” in claim 1, the phrase “each leg member and arm member is pivotally connected” in claim 11, and the absence of a “second magnetic layer” in claim 17.

It is respectfully submitted that the term “artistic,” when considered both within the context of claim 1 as a whole and in light of the specification, does not render claim 1 indefinite. In both claim 1 and the specification the term appears in the context of an “artistic layer.” Specifically, claim 1 recites an artistic layer formed of sheet material. The artistic layer includes both a torso having a plurality of articulation points and a plurality of appendages pivotally connected to the torso at one of the articulation points such that each appendage may be pivoted with respect to the torso.

To understand the meaning of the term “artistic” in claim 1, the term should be considered within the context of an “artistic layer,” since that is the context in which it appears. First, the term “layer” in “artistic layer” references the artistic layer being formed of sheet material. This meaning is supported in the specification on page 5, line 26 - page 6, line 1 of the specification, where it is stated that the artistic layer “may be formed of a sheet material such as paper, plastic, lithographic sheets, or others material which is lightweight, durable and can receive and retain printing on its outer surface.”

The term “artistic,” in the context of an “artistic layer,” references the elements of an artistic layer not encompassed by the term “layer.” Given the above meaning of the term “layer,” the term “artistic” then references the multitude of character objects having a torso and a plurality of appendages that may be represented by the artistic layer. For example, FIGs. 1 & 3 depict character objects having artistic layers in the form of male and female “Kung Fu” characters, FIGs. 6 and 7 depict character objects having artistic layers in the form of monkey characters, FIG. 7A depicts a disassembled character object having an artistic layer in the form of a dog, and FIG. 10 depicts character objects having artistic layers in the form of human basketball player characters. These are but a few examples of the multitude of character objects possessing a torso and a plurality of appendages that the artistic layer can represent.

Therefore, it is respectfully submitted that the term “artistic” as used in the context of an “artistic layer” in claim 1 is definite because claim 1 would reasonably apprise one of ordinary

skill in the pertinent art as to its scope. Accordingly, the rejection of claim 1 under 35 U.S.C. § 112, paragraph 2 should be withdrawn.

Claim 11 has been amended to indicate that each leg member and arm member is pivotally connected to the torso at one of the torso articulation points, thereby rendering the claim definite. In addition, claim 17 has been amended to recite a "second magnetic layer" and a "third magnetic layer," respectively, in place of a "third magnetic layer" and a "fourth magnetic layer." Thus, the portions of claims 11 and 17 that were objected to in the Office Action as being indefinite have been amended to address the Examiner's concerns, and the rejection of those claims under 35 U.S.C. § 112, paragraph 2 should accordingly be withdrawn.

Claim Rejections – 35 U.S.C. §102

Claims 1-2, 6-8 and 10 were rejected under 35 U.S.C. §102 as being anticipated by Wion (USP 4,294,036). Independent claim 1 recites a character object comprising an artistic layer fixed to at least one magnet. The artistic layer is formed of sheet material including a torso having a plurality of articulation points and a plurality of appendages. Each appendage is pivotally connected to the torso at one of the torso articulation points such that each appendage may be pivoted with respect to the torso.

To reject a claim under 35 U.S.C. §102(b) all of the claim elements must be present in the reference. Therefore, all of the features of claim 1 must be present in Wion to reject that claim on novelty grounds. Wion discloses an articulated figure having body and limb components formed from flexible magnetic material. Wion does not, however, disclose an articulated figure having an artistic layer fixed to at least one magnet as recited in claim 1. The various articulated figure representations in Wion are not achieved by configuring an artistic layer to depict the desired character object, but instead by altering the configuration of the flexible magnetic material making up the body and limb components. As a result, the rejection of claim 1 under 35 U.S.C. § 102(b) should be withdrawn because Wion does not disclose every element of claim 1. The rejection of claims 2, 6-8, and 10 should also be withdrawn since those claims depend from claim 1.

Claim Rejections – 35 U.S.C. §103

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wion (USP 4,294,036) in view of McKittrick, Jr. et al (USP 4,629,440). Claim 9 recites an artistic layer formed of sheet material. The artistic layer includes a torso having a plurality of articulation points and a plurality of appendages pivotally connected to the torso at one of the articulation points such that each appendage may be pivoted with respect to the torso. The plurality of appendages comprise first and second leg members each having three articulated segments and first and second arm members each having three articulated segments.

For an invention to be rendered obvious under 35 U.S.C. § 103(a) the proposed combination of prior art references must teach every element of the claimed invention. As discussed above, the Wion patent discloses an articulated figure having body and limb components formed from flexible magnetic material, however, it does not disclose an articulated figure having an artistic layer fixed to at least one magnet as recited in claim 9. Moreover, Wion also does not disclose arm and leg members each having three articulated segments as recited in claim 9.

McKittrick, Jr. et al discloses an animated toy with a plurality of leg members connected to a drive mechanism for simulating walking movement and propelling the toy. The McKittrick, Jr. et al patent does not include any disclosure, teaching, or suggestion of an artistic layer fixed to at least one magnet, as recited in claim 9. Moreover, McKittrick, Jr. et al does not disclose leg members or arm members each having three articulated segments, as recited in claim 9. Instead, it discloses leg members 14-19 (See FIG. 1) that have an inverted generally U-shaped configuration to simulate the configuration of insect legs. Leg members 14-19 are pivotally connected to body member 12 through ball and socket means, but leg members 14-19 do not possess articulated segments that can be pivoted in relation to each other.

Therefore, even if the combination of elements from McKittrick Jr et al. and Wion is permissible, the claimed invention is not achieved or rendered obvious because the proposed combination does not teach either an artistic layer fixed to at least one magnet or leg or arm members

First Named Inventor: Eric R. Melzer et al.

Application No.: 09/955,922

-10-

each having three articulated segments. The rejection of claim 9 under 35 U.S.C. § 103(a) should accordingly be withdrawn.

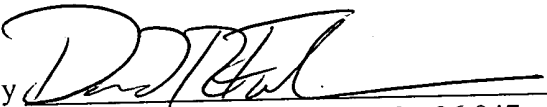
Conclusion

In view of the foregoing, all pending claims 1-20 are in condition for allowance. A Notice to that effect is respectfully requested. Any inquiries regarding this application should be directed to Dave Fairbairn at (612) 339-1863.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: 6/9/03

By 

David R. Fairbairn, Reg. No. 26,047
THE KINNEY & LANGE BUILDING
312 South Third Street
Minneapolis, MN 55415-1002
Telephone: (612) 339-1863
Fax: (612) 339-6580

DRF:AD:eav

**APPENDIX:
MARKED UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS**

Please replace the paragraph at page 12, line 20 - page 13, line 6 with the following paragraph (marked up version attached in Appendix):

The second character object 34 is shown posed with the first character object 12 in FIG. 8. By placing two character objects 34 and 12 next to each other and articulating them into different poses, a situational interaction can be suggested between the second and third character objects 34 and 12. For example, it could be implied that the character objects 34 and 12 are fighting, dancing, singing, or any other number of actions. By placing word bubble objects 11 next to each of the character objects 34 and 12, it is implied that the character objects 34 and 12 are speaking to each other. The speech of each character is provided by the user. This can be accomplished by writing messages 11C on the erasable surface of the word bubble objects 11, or placing word objects [32] 9 on the word bubble objects 11, as shown in FIG. 9. The word objects [32] 9 can be supplied with assembly 10 or provided separately. The user implies situational interaction between first and second character objects 34 and [42] 12 (here depicted as Kung Fu fighters) by placing word objects [32] 9 inside the word bubble objects 11 to provide speech (or thought) to the character objects [40] 34 and [42] 12.

Please replace the paragraph at page 14, lines 9 -13 with the following paragraph (marked up version attached in Appendix):

As shown in FIGs. 11 and 12, the characters might also be designed with an optional small transparent plastic pocket 42 (shown in dotted lines) over the head appendage 20 of a character object (e.g., third character object 38) where the user can insert a picture [14] 44 (or artwork) of their own creation to further personalize the character object.

Please amend claims 11 and 17 as follows:

11. (Amended) A toy assembly comprising:

a character object including:

- a torso formed of sheet material having a plurality of articulation points;
- first and second leg members, wherein each of the first and second leg members has at least two articulation points;
- first and second arm members, wherein each of the third and fourth arm members has at least two articulation points;
- wherein each leg member and arm member is pivotally connected to the torso at [each] one of the articulation points on the torso; and
- a magnetic pivot fastener disposed at each articulation point wherein each magnetic pivot fastener includes single annular plastic casing having a magnet secured internally in the casing and annular collars disposed annularly about the casing so as to secure each appendage to the torso.

**APPENDIX:
MARKED UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS**

17. (Amended) A toy kit comprising:

a case;

a first character object including:

a torso formed of sheet material having a plurality of torso joints;

first and second leg members formed of sheet material pivotally connected to the torso wherein each of the first and second leg members is pivotally connected to the torso at one of the torso joints and has at least two articulated segments;

first and second arm members formed of sheet material wherein each of the first and second arm members is pivotally connected to the torso at one of the torso joints and has at least two articulated segments;

a head member formed of sheet material pivotally connected to the torso at one of the torso joints; and

a first magnetic layer fixably attached to the torso, first and second leg members, first and second arm members and head member;

a first word bubble object including:

a word object surface formed of sheet material and shaped so as to resemble a cartoon word balloon; and

a [third] second magnetic layer fixably attached to the word object surface;

an accessory object including:

a first accessory surface formed of sheet material and shaped so as to resemble a tool; and

a [fourth] third magnetic layer fixably attached to the accessory surface.